UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 26 2013

CERTIFIED MAIL 7012 1010 0001 8097 3987
RETURN RECEIPT REQUESTED

Mr. Jeff Hall
Plant Manager
Arkema, Inc.
4444 Industrial Parkway
Calvert City, Kentucky 42029

Re: Notice of Violation No. 309-2013-08
Information Request pursuant to 308 of the Clean Water Act
National Pollutant Discharge Elimination System Permit No: KY0003603
Arkema, Inc.

Dear Mr. Hall:

From February 28 through March 7, 2012, the U.S. Environmental Protection Agency National Enforcement Investigations Center (NEIC) conducted a compliance inspection at Arkema, Inc., (Facility) located in Calvert City, Kentucky. The purpose of this inspection was to evaluate compliance with the Clean Water Act (CWA), among other Federal Statutes. Eight violations of the CWA, as well as three areas of concern were discovered during the inspection. Pursuant to Section 309(a)(1) of the CWA, 33 U.S.C. §1319(a)(1), the EPA hereby notifies the Facility that it has violated its National Pollutant Discharge Elimination System (NPDES) Permit No. KY0003603. The inspection findings are enclosed with this letter for your review, in Enclosure A.

The EPA requests, pursuant to Section 308 of the CWA, 33 U.S.C. §1318, that the Facility provide a written explanation of the reasons for each of the findings and any other effluent or NPDES Permit violations that may have occurred from March 2012 to the present. In addition, please provide a summary of actions taken or planned by the Facility to correct the problems and to prevent future violations. In instances where the actions are planned, please include a schedule for completing the actions.

The Facility's response should specifically reference the particular violation number, area of concern number, or effluent limit exceedance for the purpose of clarity. In addition, all information submitted must be accompanied by the following certification signed by a responsible official:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly

responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The Facility shall preserve, until further notice, all records (either written or electronic) which exist at the time of receipt of this letter that relate to any of the matters set forth in this letter. The term "records" shall be interpreted in the broadest sense to include information of every sort. The response to this information request shall include assurance that these record protection provisions were put in place, as required. No such records shall be disposed of until written authorization is received from the Chief of the Clean Water Enforcement Branch of the U.S. EPA Region 4.

If you believe that any of the requested information constitutes confidential business information, you may assert a confidentiality claim with respect to such information except for effluent data. Further details, including how to make a business confidentiality claim, are found in Enclosure B.

Also, enclosed is a document entitled *U.S. EPA Small Business Resources Information Sheet,* which may assist you in understanding the compliance assistance resources and tools available to the Facility. However, any decision to seek compliance assistance at this time does not relieve the Facility of its obligations to the EPA or the Commonwealth of Kentucky, does not create any new rights or defenses and will not affect the EPA's decision to pursue enforcement action. In addition, the Securities and Exchange Commission (SEC) requires its registrants to periodically disclose environmental legal proceedings in statements filed with the SEC. To assist you, the EPA has also enclosed a document entitled *Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings.*

The Facility must submit the requested information within 30 days of receipt of this correspondence. The submittal must be addressed to:

Ms. Laurie Jones
U.S. Environmental Protection Agency, Region 4
Clean Water Enforcement Branch
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

The Commonwealth of Kentucky is being concurrently notified of these findings. The EPA is coordinating with the Commonwealth to ensure that timely and appropriate enforcement action is taken and compliance with the conditions of the NPDES Permit is achieved.

If these violations are not resolved in a timely or appropriate manner, and/or if the Facility fails to respond to the Information Request, the EPA may take enforcement action, which may include issuance of an administrative order, assessment of administrative penalties, or initiation of a civil judicial action pursuant to Section 309 of the CWA, 33 U.S.C. §1319. In addition, there is potential criminal liability for the falsification of any response to the requested information.

If you have questions regarding this notice and information request, please feel free to contact Ms. Laurie Jones, Environmental Engineer at (404) 562-9201 or by email at jones.laurie@epa.gov.

Sincerely,

James D. Giattina
Director
Water Protection Division

Enclosures

cc: Mr. Jeff Kitchens
Kentucky Department of Environmental Protection

Enclosure A

Violation Number	Regulatory Citation	Inspection Observations/ Record Review Findings
1	**KPDES Permit KY0003603, Part I A. Effluent Limitations and Monitoring Requirements** – *Oil & Grease (mg/l) Monitoring Requirements: Measurement Frequency is 1/month, Sample Type is Grab.* **KPDES Permit KY0003603, Part II. Standard Conditions for KPDES Permit** – ... *All conditions of 40 CFR 122.41 (401 KAR 5:065, Section 2(1)) are hereby incorporated by reference as conditions of this permit.* **40 CFR 122.41, Conditions applicable to all permits (j) Monitoring and records (4)** – *Monitoring must be conducted according to test procedures approved under 40 CFR 136 unless another method is required under 40 CFR subchapters N or O.* **40 CFR 136.3 Identification of test procedures, Table II. Required Containers, Preservation Techniques, and Holding Times** – *Oil and grease container is glass.*	**Finding** **Arkema uses a plastic bucket to collect the oil and grease (O&G) grab sample and then transfers it into an amber glass sample container. According to 40 CFR 136, O&G samples must be collected into a glass container. Arkema does not follow the sampling techniques specified in 40 CFR 136 because the grab sample is not collected into a glass jar and tests conducted in this manner are not considered valid.** **Supporting Notes** Arkema's KPDES permit requires all conditions of 40 CFR 122.41 to be incorporated by reference in the permit. 40 CFR 122.41 identifies test procedures in 40 CFR 136 to be followed. Therefore, the sampling and analysis of Arkema's O&G grab sample must follow 40 CFR 136, and the sample must be collected in a glass container. The O&G grab sample collected on March 6, 2012, by Arkema's contractor, 5H Technologies Inc., was first collected in a plastic bucket and then transferred to an amber glass sample container. Arkema does not follow the sample technique outlined in 40 CFR 136, because the O&G grab sample is not collected into a glass jar. On March 6, 2012, NEIC's Trent Rainey explained the issue of transferring the O&G sample from a plastic bucket into a glass container to Arkema's lead plant environmental engineer, Don Swearingen. T. Rainey restated this issue at the closing conference with all of Arkema staff on March 7, 2012.
2	**KPDES Permit KY0003603, Part II. Standard Conditions for KPDES Permit** – ... *All conditions of 40 CFR 122.41 (401 KAR 5:065, Section 2(1)) are hereby incorporated by reference as conditions of this permit.* **40 CFR 122.41, Conditions applicable to all permits (l) Reporting requirements (1) Planned changes** – *The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:* *i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in §122.29(b); or* *ii) The alteration or addition could significantly change the nature or increases the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under §122.42(a)(1).*	**Finding** **Arkema did not notify KDEP or EPA Region 4 about planned changes to the wastewater treatment process, specifically routing effluent flow from the Forane® neutralization process area to the primary HF lagoon, thus removing the Forane® lagoon from the treatment process.** **Supporting Notes** Process wastewater at Arkema's facility receives primary treatment in either the Forane® neutralization or the HF neutralization process areas. At the time of the NEIC inspection, effluent from the Forane® neutralization process area was routed to the primary HF lagoon for settlement. According to Arkema's KPDES application, wastewater treatment schematic, water balance diagram, and discussions with facility staff, the effluent from the Forane® neutralization process area previously flowed into the Forane® lagoon, then was routed to the organic removal system (AWD unit) before it was sent to the HF lagoon. According to Kim Knotts, Arkema's health, environment and safety manager, the AWD unit was removed from service in September 2010. K. Knotts also stated that Arkema discontinued routing effluent from the Forane® neutralization process area to the Forane® lagoon in September 2011.

	iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during permit application process or not reported pursuant to an approved land application plan.	Arkema's KPDES permit references 40 CFR 122.41 for the permit conditions, which state that the permittee shall give notice to the permitting authority of any planned physical alterations or additions to the permitted facility. Removing the AWD unit and the Forane® lagoon from the wastewater treatment process and re-routing the effluent from the Forane® neutralization process area directly to the primary HF lagoon are physical alterations to the permitted facility. Arkema submitted a notification letter to KDEP on March 17, 2010, regarding the discontinued use of the AWD unit and the sampling Arkema would perform during the remainder of 2010 to confirm volatile organic compounds (VOC) compliance. Arkema did not submit a notification letter to KDEP regarding the removal of the Forane® lagoon from the wastewater treatment process. On March 7, 2012, NEIC asked D. Swearingen and Bob Wright, personnel in Arkema's corporate remediation group, for any documentation or notification to KDEP regarding Arkema's planned changes to the wastewater treatment process. On April 5, 2012, NEIC sent a follow-up email to K. Knotts to determine if Arkema had found documentation of the notification, specifically regarding the removal of the Forane® lagoon from the wastewater treatment process. On April 10, 2012, K. Knotts replied by email that Arkema could not locate a notification and did not believe a formal notification was ever made to KDEP.
3	**KPDES Permit KY0003603, Part II. Standard Conditions for KPDES Permit** – ... *All conditions of 40 CFR 122.41 (401 KAR 5:065, Section 2(1)) are hereby incorporated by reference as conditions of this permit.* **40 CFR 122.41, Conditions applicable to all permits, (l) Reporting requirements, (4) Monitoring reports (ii)** – *If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.*	**Finding** **Arkema has two collocated pH monitoring probes continuously recording pH at effluent outfall SN001, but Arkema does not provide all of the pH data to the KDEP. Arkema's staff responsible for submitting discharge monitoring reports (DMRs) eliminates certain data points that he interprets to be errors. Arkema's KPDES permit requires the permittee to report results when monitoring any pollutant more frequently than required by the permit in accordance with 40 CFR 122.41.** **Supporting Notes** On March 7, 2012, the NEIC CWA inspection team members and D. Swearingen had a conversation about the two pH continuous recording probes at outfall SN001. D. Swearingen collects and graphically plots the pH data to complete the monthly DMRs. D. Swearingen explained that he eliminates certain pH data points he interprets as erroneous, such as a spike in one of the probes that is out of compliance. Although, if both pH probes are trending up or down and out of compliance, then D. Swearingen would consider the pH to be out of compliance. During the March 7, 2012, conversation, D. Swearingen stated that he does not report the eliminated pH data on the DMR. On March 7, 2012, the NEIC CWA inspection team members requested the supporting documentation and data used to complete the DMRs for three randomly selected months: September 2009, April 2010, and February 2011. The September 2009 DMR and raw pH data is an example of how the pH data was reviewed and filtered by Arkema staff before the DMR was submitted to KDEP. Arkema's procedure for KPDES compliance monitoring and reporting states Arkema's responsible engineer will use the daily spreadsheet, which shows the minimum and maximum measurement for each day, to determine pH compliance.

		According to Arkema's KPDES permit, all conditions of 40 CFR 122.41 are incorporated into the permit, including the reporting requirements for monitoring reports. 40 CFR 122.41(l)(4)(ii) states, *"If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR 136...the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR."* Arkema is not following this requirement because Arkema's staff eliminates and excludes certain pH data points.
4	**40 CFR §122.26(a)(6)(i)** All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the United States, with each discharger to the non-municipal conveyance a co-permittee to that permit. The meaning of *"Storm water discharge associated with industrial activity"* is further defined in 40 CFR §122.26(a)(14) and includes storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. **EPA's Industrial Stormwater Fact Sheet Series, Sector C: Chemical and Allied Products, Manufacturing and Refining –** *Activities, such as material handling and storage, equipment maintenance and cleaning, industrial processing or other operations that occur at industrial facilities are often exposed to stormwater. The runoff from these areas may discharge pollutants directly into nearby water bodies or indirectly via storm sewer systems, thereby degrading water quality.* *In 1990, the U.S. Environmental Protection Agency (EPA) developed permitting regulations under the National Pollutant Discharge Elimination System (NPDES) to control stormwater discharges associated with eleven categories of industrial activity. As a result,*	**Finding** **Arkema currently has six unpermitted stormwater outfalls with the potential to discharge to the Tennessee River (stormwater outfalls 002, 003, 004, 005, 006, and 008). Arkema used to also discharge from unpermitted stormwater outfall 007, however 007 has been diverted to stormwater outfall 006 because of construction on an adjacent property. Stormwater outfall 002 was actively discharging during the NEIC inspection.** **Supporting Notes** Arkema is a chemical manufacturing plant that produces a range of fluorinated refrigerants and polymer resins, and is characterized using the standard industrial classification (SIC) codes 2819 – hydrochloric acid, 2869 – industrial organic chemicals, and 2821 – plastics material, synthetic resins, and non-vulcanizable elastomers. Arkema receives, handles, stores, produces, and transports various chemicals onto and off of the property as part of daily business activities. These chemicals can be shipped by barge, railcar, or truck. Arkema's northern property boundary extends approximately 1.5 miles along the Tennessee River. Thus, stormwater runoff from the property has the potential to flow directly into the Tennessee River. The stormwater outfall locations were documented on a plant diagram dated June 10, 1998, when the facility was owned by the ATOFINA Chemicals company. According to the *EPA's Industrial Stormwater Fact Sheet for Sector C: Chemical and Allied Products Manufacturing and Refining*, dated December 2006, the NPDES permitting authority issues stormwater permits to control runoff from industrial facilities. Arkema is a primary chemical manufacturing facility, as such, stormwater discharges associated with industrial activities are required to be covered under a KPDES permit in accordance with 40 CFR §122.26 (Stormwater discharges) and/or 40 CFR §122.27 (General Permits). KDEP is the NPDES permitting authority for all regulated discharges, including stormwater permits in Kentucky. Arkema's current KPDES permit, effective October 1, 2010, does not identify effluent limitations or monitoring requirements for stormwater outfalls 002 through 008. Instead, according to the current KPDES permit fact sheet and past fact sheets, KDEP removed stormwater outfalls from the permit and the facility's best management practice (BMP) plan is required to address these areas. Arkema incorporated the BMP plan into a document called the "Integrated Contingency and Response" plan, which states, *stormwater runoff from the active portions of the facility are treated, monitored and discharged through a permitted KPDES discharge outfall."* Arkema did not include or identify discharges from stormwater

	NPDES permitting authorities, which may be either EPA or a state environmental agency, issue stormwater permits to control runoff from these industrial facilities. **KPDES Permit KY0003603, Fact Sheet dated September 30, 2010, 1. Synopsis of Application, e. Description of Existing Pollution Abatement Facilities** – *Outfall 002, Stormwater runoff from inactive plant process areas receives no treatment prior to discharge. Monitoring of this outfall over the term of the previous permit has shown that no reasonable potential exists for contamination of surface waters from these sources. Therefore, this outfall is being removed from the permit. In order to protect surface waters, the Division of Water will require that these areas be addressed in the facility's Best Management Practices (BMP) Plan.* **KPDES Permit KY0003603, Fact Sheet dated April 20, 2000, 3. Reported Discharge and Proposed Limits, Outfalls 003 through 008** – *Outfalls 003 through 008 are stormwater outfalls that drain areas of the plant that have little or no potential for contamination of stormwater. The Division of Water has determined that these outfalls are best addressed under the requirements of the facility's Best Management Practices (BMP) Plan.*	outfalls 002, 003, 004, 005, 006, 007, or 008 in its most recent KPDES permit renewal application dated November 30, 2010. It is unclear why Arkema did not identify all discharges and outfalls in the KPDES permit application. According to D. Swearingen, the KDEP removed the stormwater outfalls and monitoring requirements from previous KPDES permits without notifying Arkema. The last KPDES permit to require compliance sampling at stormwater outfall 002 became effective on September 1, 2003, and was issued to the previous property owner, ATOFINA Chemicals. The last KPDES permit to require compliance sampling at stormwater outfall 003, 004, 005, 006, 007, and 008 became effective November 1, 1999, and was issued to the previous property owner Elf Atochem North America. According to D. Swearingen, the most recent compliance sampling at stormwater outfall 002 was conducted for the May 2006 DMR, and last compliance sampling at stormwater outfalls 003 through 008 was conducted for the June 2000 DMR. Note: If stored material is exposed to stormwater runoff or there is a potential for stormwater discharge associated with active industrial activity, Arkema also needs to modify its permit to include the outfalls associated with these discharges.
5	**KPDES Permit KY0003603, Part I A. Effluent Limitations and Monitoring Requirements** – *Discharge Limitations for pH (standard units): daily minimum 6.0, daily maximum 9.0.* **40 CFR 122.41, Conditions applicable to all permits, (l) Reporting requirements, (8) Other information** – *Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.*	**Finding** **Arkema's continuous pH monitoring data collected in April 2010 at effluent outfall SN001 was not accurately reported on the DMRs for minimum and maximum pH values. Although the pH ranges reported for April 2010 were not out of compliance, there was a high potential for error and misrepresentation of the pH minimum and maximum values.** **Supporting Notes** On March 7, 2012, the NEIC CWA inspection team members requested the supporting documentation and data used to complete the DMRs for three randomly selected months: September 2009, April 2010, and February 2011. NEIC compared the raw data to the reported values and questioned D. Swearingen on how the raw data was recorded on the DMRs. D. Swearingen stated that he was responsible for querying the raw pH values from the two pH probes located at outfall SN001 to determine the minimum and maximum pH values. The April 2010 DMR raw pH values do not match the minimum and maximum pH values recorded on the DMR. D. Swearingen and B. Wright were involved in the discussion with the NEIC CWA inspection team on March 7, 2012, when NEIC pointed out the discrepancies in the April 2010 raw data and what was recorded on the DMR. D. Swearingen acknowledged the discrepancies.

		T. Rainey restated this information at the close-out meeting with Arkema staff on March 7, 2012.
6	**KPDES Permit KY0003603, Part I A. Effluent Limitations and Monitoring Requirements** – *There shall be no discharge of floating solids or visible foam or sheen in other than trace amounts.*	**Finding** **The NEIC inspection team observed white floatable material below the last boom in the lower lagoon during the Arkema plant tour on February 29, 2012. Arkema's KPDES permit prohibits the discharge of floating solids or visible foam or sheen.** **Supporting Notes** On February 29, 2012, NEIC observed white floatable material past the last boom in the lower lagoon while on the facility tour. According to Arkema's plant manager, Jeff Hall, the white floatable material in the lower lagoon is most likely Kynar®. Processes wash-down water from the Kynar® process area is routed to the industrial sewer, where it receives final pH adjustment, and then flows into the lower lagoon before it discharges through outfall SN001. The boom in the lower lagoon is designed to restrict and prevent floatable material from exiting the lower lagoon through outfall SN001. The presence of white, floatable, Kynar® material in the lower lagoon, especially after the boom, creates the potential release of floatable solids to discharge into the Tennessee River through effluent outfall SN001.
7	**40 CFR 136.3 Identification of test procedures, Table II. Required Containers, Preservation Techniques, and Holding Times** – *Oil and grease preservation is cool to <6C, HCl or H2SO4 to pH<2.* *Hardness preservation is HNO3 or H2SO4 to pH<2.*	**Finding** **Chain of custody form in the DMR data package for April 2010 does not indicate whether or not a preservative was used, or what container type was used.** **Supporting Notes** On March 7, 2012, the NEIC CWA inspection team members requested the supporting documentation and data used to complete the DMRs for three randomly selected months: September 2009, April 2010, and February 2011. The chain of custody forms in the September 2009 and February 2011 DMR data packets indicate the types of preservatives sample container used. The chain of custody form in the April 2010 DMR data packet does not indicate that a preservative was used or the sample container type.
8	**40 CFR 136.3 Identification of test procedures, Table II. Required Containers, Preservation Techniques, and Holding Times** – *Biochemical oxygen demand parameter preservation is cool to ≤6°C.*	**Finding** **During collection of the outfall SN001 composite sample on March 6, 2012, the sample temperature was measured as 12.8 degrees Celsius (°C). 40 CFR 136 specifies that samples are to be preserved at or less than 6 °C if they are not analyzed immediately after sampling.** **Supporting Notes** On March 6, 2012, 5H Technologies Inc. used a hand-held pH measuring probe, designed to record both pH and temperature, to record measurements at outfall SN001. Before collecting the compliance samples, the sample collectors calibrated the pH meter using pH 4, 7, and 10 buffers. The temperature probe was not calibrated or checked. The samplers used the probe to record the pH and temperature of the composite sample. Even though ice still surrounded the sample containers, the sample temperature was measured as 12.8 °C. Note that while the thermometer does not need to be calibrated daily, it does need to be calibrated initially and biannually against a NIST thermometer to within +/- 1°C as described

		on page 5-22 of the 2004 EPA NPDES Compliance Inspection Manual. Thermometer calibration records were not reviewed as part of this inspection.
Area of Concern Number	**Regulatory Citation**	**Inspection Observations/ Record Review Findings**
1	**n/a**	**Finding** **There are no identifying and visible signs of Arkema outfall locations along the Tennessee River.** **Supporting Notes** Arkema currently has a small sign directly over the compliance sample point at outfall SN001. According to KDEP state inspectors present during the inspection, there will be new Kentucky state requirements for signs indicating outfall locations along the Tennessee River in the near future. This state requirement may have implication for all outfalls at Arkema, including the stormwater outfalls. At the time of the inspection, there was only one sign near the submerged stormwater outfall 002 along the Tennessee River, but it only stated, "caution, outfall pipe." There was no signage at stormwater outfalls 003, 004, 005, 006, 007, or 008. The concern is that the public is not informed about facility outfall locations along the Tennessee River.
2	**n/a**	**Finding** **There is the potential for spills or releases of stored chemicals used for manufacturing in the east side of the Arkema facility and from the transfer pipe from the barge area to discharge into the chlorate lagoon (also labeled as east lagoon on some diagrams), which flows north to stormwater outfall 002.** **Supporting Notes** Stormwater flow on the east side of Arkema's facility drains into the chlorate lagoon, which is also referred to as east lagoon on some diagrams. Arkema's stormwater outfall 002 discharges flow from the chlorate lagoon into the Tennessee River on the northeast side of the property. Arkema does not have a shut-off gate to prevent an accidental discharge into the chlorate lagoon or to prevent discharge from the chlorate lagoon into stormwater outfall 002. During the time of inspection, discharge was visible at stormwater outfall 002. Stormwater outfall 002 is not identified in the KPDES permit, and Arkema does not conduct any sampling or monitoring of discharge from this outfall. In the event of a spill or release on the east side of the facility, there is the potential for pollutants to be discharged through stormwater outfall 002.
3	**n/a**	**Finding** **There is a potential for spills or releases of chemicals used for production from the railcar area to stormwater outfall 006. Arkema does not have a shut-off gate for drainage from this area.** **Supporting Notes** Stormwater flow from the railcar area flows south and then to the western edge of Arkema's property. Stormwater that collects on the western edge of Arkema's property discharges to the Tennesse River through stormwater outfall 006. Arkema does not have a shut-off gate to prevent stormwater flow from the railcar area. In the event of a spill or release from the railcar area, there is the potential for pollutants to be discharged through stormwater outfall 006.

ENCLOSURE B

RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS
(40 C.F.R. Part 2)

Except for effluent data, you may, if you desire, assert a business confidentiality claim as to any or all of the information that the EPA is requesting from you. The EPA regulation relating to business confidentiality claims is found at 40 C.F.R. Part 2.

If you assert such a claim for the requested information, the EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, the EPA may make the information available to the public without any further notice to you.

40 C.F.R. § 2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, proprietary, or company confidential. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.